

D.T.E. 02-39

Investigation by the Department of Telecommunications and Energy into the Petition of New England Gas Company for approval of a Firm Gas Transportation Agreement with Algonquin Gas Transmission Company

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I. INTRODUCTION

On July 1, 2002, New England Gas Company (“NEGC” or “Company”),¹ pursuant to G.L. c. 164, §§ 76(1) and 94A, submitted a petition to the Department of Telecommunications and Energy (“Department”) for approval of a firm transportation agreement between Fall River Gas Company (“Fall River”) and Algonquin Gas Transmission Company (“Algonquin”). This case has been docketed as D.T.E. 02-39.

On July 23, 2002, pursuant to notice duly issued, the Department conducted a public hearing to afford interested persons the opportunity to comment on the Company’s proposal. The Attorney General of the Commonwealth (“Attorney General”) intervened as of right, pursuant to G.L. c. 12, § 11E. The Department granted the Petition for Leave to Participate as a Limited Participant of KeySpan Energy Delivery New England (“KeySpan”). On August 9, 2002, the Department held an evidentiary hearing. The Company presented the testimony of Gary Beland, director of gas supply, Jack Fanning, director of gas control and vice president of administration for Fall River, and Kerry Britland, regulatory specialist for the Company. On August 19, 2002, the Company submitted a brief. Neither the Attorney General nor KeySpan submitted a brief in this matter. The record in this proceeding consists of 32 exhibits,

¹ On September 6, 2000, the Department approved the merger of Fall River Gas Company into Southern Union Company. Fall River Gas Company and Southern Union Company, D.T.E. 00-25 (2000). On September 6, 2000, the Department also approved the merger of North Attleboro Gas Company into Providence Energy Corporation and the merger of Providence Energy Corporation into Southern Union Company. North Attleboro Gas Company, Providence Energy Corporation and Southern Union Company, D.T.E. 00-26 (2000). In December 2001, the Fall River Gas Company and North Attleboro Gas Company began operating as New England Gas Company (Exh. NEG-1, at 1).

consisting primarily of the Company's responses to information requests issued by the Department and the Attorney General.

II. DESCRIPTION OF THE COMPANY'S PROPOSAL

The Company submitted an agreement with Algonquin that includes both a firm transportation contract for up to 5,000 MMBtus/day on the Hubline Project² as well as an Algonquin- financed expansion of the G-system into the Company's Fall River service area (" Hubline Agreement" or "Agreement") (Exh. NEG-1, at 1; Company Brief at 1). The Agreement is for a ten-year term beginning on November 1, 2003, or if later, the in-service date of Hubline (Exh. NEG-1, at 1; Company Brief at 1).

The Company states that the Agreement is both consistent with the portfolio objectives established in the Company's most-recent Long Range Forecast and Supply Plan for the Fall River service area as approved by the Department in Fall River Gas Company, D.T.E. 99-26 (2000), and compares favorably to the range of alternatives reasonably available to the Company and its customers (Exh. NEG-1, Att. F(1); Company Brief at 2). The Company proposes to substitute the Hubline capacity for capacity resources currently under contract that serve both design-day and design-season purposes (Exh. NEG-1, at 8-9). NEGC, therefore,

² The Hubline Project is one component of a two-part interstate pipeline expansion plan that is being undertaken by Algonquin and its affiliate, the Maritimes & Northeast Pipeline L.L.C. ("Maritimes"). This pipeline expansion plan involves: (1) the development of a high-pressure natural gas pipeline from Methuen, Massachusetts to Beverly, Massachusetts by Maritimes (the "Phase III Project"); and (2) Algonquin's extension of a 29.4 mile, 30-inch diameter pipeline constructed primarily in the ocean from Beverly, Massachusetts across the Massachusetts Bay to Weymouth, Massachusetts (the "Hubline Project")(Exh. NEG-1, at 1-2).

claims the addition of the Hubline capacity represents replacement capacity, rather than a resource that is incremental to the existing portfolio (id.). The Company asserts that the Agreement meets the Department's standard set forth in Commonwealth Gas Company, D.P.U. 94-174-A (1996) for the addition of a replacement resource contract (Company Brief at 2).

By letter agreement dated April 18, 2002, prior to the execution of the Precedent Agreement, the Company and Algonquin negotiated the maximum rate that Algonquin could charge to the Company for transportation volumes under the Agreement (Exhs. NEG-1, at 3; Att A; DTE-1-9, AG-1-6). In order to perform its cost comparison, the Company analyzed the economics of the Hubline Agreement using both the projected interim rate and the negotiated maximum rate.³ The Company evaluated the cost of the Hubline capacity in relation to other existing contracts for transportation to the city gate, including an approximation of the commodity cost that would be associated with the transportation available under those contracts (Exh. NEG-1, at 10). It additionally evaluated the cost of the Hubline capacity in relation to other existing transportation alternatives through a comparison of the demand costs associated with each contract (id.). The Company's analysis shows that the Hubline volumes compare favorably to other resources in the Company's portfolio even at the maximum rate (id. at Att.F; Exh. DTE-1-12).

³ The Company also filed for approval of the interim transportation rate because it was the Company's expectation that the interim rate would be finalized prior to the conclusion of the Department's review in this proceeding (Exh. NEG-1, at Att. F). At the evidentiary hearing, the Company indicated that discussions regarding the final rate to be charged under the Agreement were ongoing; however, the Company indicated that the rate would not exceed the maximum rate set forth in Exhibit DTE-1-9 (Tr.at 8-9). Thus, as discussed below, the Company requests that the Department approve the Agreement on the basis of the maximum rate (Company Brief at 4).

NEGC states that one of the non-cost benefits of the proposed capacity contract is the G-system expansion, which will allow Algonquin to add a new gate station and related facilities in Freetown, Massachusetts (the “North Fall River Delivery Point”), and therefore will enable the Company to improve system reliability and expand distribution within Fall River’s service territory (Exh. NEG-1, at 2; Company Brief at 1).⁴ According to the Company, the new gate station also will enhance both the operational flexibility and reliability of the Company’s system as well as increase the Company’s ability to expand its northernmost distribution service(Exh. NEG-1, at 2; Company Brief at 1).⁵ Finally, the Company indicated that in order to remain in compliance with existing Department directives, it holds periodic discussions with marketers and provides marketers in the Company’s distribution territories with updates regarding pipeline capacity modifications (RR-DTE-10).

III. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under Section 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, an LDC must show that the acquisition (1) is consistent with the

⁴ The additional gate station will also alleviate existing concerns of system failure on design days to this area of the distribution system since a two-way distribution feed would replace the one-way feed now available (Exh. NEG-1, at 14).

⁵ As a result of the Agreement, the company expects to add approximately ten to fifteen new customers to its system over the next ten years (Tr. at 27-28).

company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the company and its customers, including releasing capacity to customers migrating to transportation, at the time of the acquisition or contract renegotiation.

Id.

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to portfolio objectives established in a recently approved resource plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the proposed resource. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of relevant price and non-price attributes, the Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage, and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. Id. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives, including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29.

IV. ANALYSIS AND FINDINGS

The Department notes that it approved the supply planning process for Fall River in its most recent forecast and supply plan, Fall River Gas Company, D.T.E. 99-26 (2000). At that time, the Department deemed Fall River's portfolio of resources to be necessary to meet forecasted sendout requirements. Because the level of citygate deliverability established in

D.T.E. 99-26 is maintained through the substitution of Hubline capacity for another portfolio resource, the Department finds the Company's proposal to be consistent with portfolio objectives as approved by the Department in Fall River's most recent forecast and supply plan (see Exh. NEG-1, at 8).

The Company also demonstrates that the proposed resource acquisition compares favorably to other resources in the Company's portfolio in terms of both price and non-price characteristics. Even at the maximum negotiated rate, the Hubline agreement is competitive with deliverability to the Company's city gate when compared to other resource alternatives (Exh. DTE 1-12). In addition, the proposed agreement significantly increases the flexibility and diversity of gas deliveries to the pipeline serving the Company's Fall River service area. The Department notes that access to heretofore unavailable Canadian gas supplies and the construction of a new gate station provide the Company with a more diverse supply portfolio and greater flexibility to meet customer requirements. Finally, the additional gate station will improve the reliability of the distribution system since the current one-way feed to the northern sector of the Company's service territory will be replaced with a two-way distribution feed that allows gas to flow to a greater number of customers in the event of a system failure (Exh. NEG-1, at 14).

The Department concludes that the acquisition of firm capacity on the Hubline is consistent with the public interest and, therefore, approves the Firm Transportation Agreement between Fall River and Algonquin.

V. ORDER

Accordingly, after due notice, hearing and consideration, it is hereby

ORDERED: That the ten-year firm transportation agreement with a maximum negotiated rate between New England Gas Company and the Algonquin Gas Transmission Company is approved.

By Order of the Department,

Paul B. Vasington, Chairman

James Connelly, Commissioner

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Diedre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).